



# UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE  
United States Patent and Trademark Office  
Address: COMMISSIONER FOR PATENTS  
P.O. Box 1450  
Alexandria, Virginia 22313-1450  
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
-----------------	-------------	----------------------	---------------------	------------------

10/509,337

10/08/2004

Hideto Aikawa

259911US2PCT

2022

22850

7590

01/03/2007

OBLON, SPIVAK, MCCLELLAND, MAIER & NEUSTADT, P.C.  
1940 DUKE STREET  
ALEXANDRIA, VA 22314

EXAMINER

CHAN, RICHARD

ART UNIT

PAPER NUMBER

2618

SHORTENED STATUTORY PERIOD OF RESPONSE	MAIL DATE	DELIVERY MODE
--	-----------	---------------

3 MONTHS

01/03/2007

PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

<b>Office Action Summary</b>	Application No.	Applicant(s)	
	10/509,337	AIKAWA ET AL.	
	Examiner	Art Unit	
	Richard Chan	2618	

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 08 October 2004.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☐ Claim(s) 1-14 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-14 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 08 October 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)            | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)   | Paper No(s)/Mail Date. _____                                      |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>11/23/04</u> .  | 6) <input type="checkbox"/> Other: _____                          |

**DETAILED ACTION**

***Claim Rejections - 35 USC § 102***

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 1-9 are rejected under 35 U.S.C. 102(b) as being anticipated by Newson (US 6,320,898).

With respect to claim 1, Newson discloses the mobile station Fig.4 that receives data from a plurality of sectors and selects sectors as candidates for site selection (Col.4 line 54-59) diversity transmit power control 622 from said plurality of sectors, (Col.6 line 3-8) characterized in that said mobile station selects two or more sectors from sectors listed in a sector selection candidate table, using switch 610 under controller 650 which is received, via said plurality of sectors, from a radio network control station. (Col.6 line 9-14)

With respect to claim 2, Newson discloses the mobile station Fig.4 according to claim 1, characterized in that when said mobile station does not receive any data via dedicated physical data channels from selected sectors, said mobile station selects two or more sectors. (Col.4 line 32-37)

With respect to claim 3, Newson discloses the mobile station according to claim 1, characterized in that when said mobile station Fig.4 has not received any data via dedicated physical data channels from selected sectors a predetermined number or more of times, said mobile station selects two or more sectors. (Col.6 line 42-47)

With respect to claim 4, Newson discloses the mobile station according to claim 1, characterized in that said mobile station Fig.4 determines whether or not said mobile station is receiving data via a common pilot channel from each of said plurality of sectors (Col.2 line 55-61), and, when said mobile station Fig.4 has not received any data via common pilot channels from each of said plurality of sectors a predetermined number or more of times, said mobile station selects two or more sectors. (Col.6 line 42-47)

With respect to claim 5, Newson discloses the mobile station according to claim 4, characterized in that said mobile station Fig.4 excludes sectors from which said mobile station does not receive any data via common pilot channels from candidates for site selection diversity transmit power control. (Col.2 line 55-67)

With respect to claim 6, Newson discloses the mobile station according to claim 4, characterized in that said mobile station excludes sectors from which said mobile station has not received any data via common pilot channels the predetermined number or more of times from candidates for site selection diversity transmit power control.

Art Unit: 2618

(Col.2 line 55-67)

With respect to claim 7, Newson discloses the mobile station Fig.4 that receives data from a plurality of sectors and selects sectors as candidates for site selection diversity transmit power control, (Col.4 line 54-59) characterized in that said mobile station determines whether or not said mobile station is receiving data from each of said plurality of sectors, using switch 610 under controller 650 and excludes sectors from which said mobile station has not received any data via common pilot channels a predetermined number or more of times from candidates for site selection diversity transmit power control. (Col.2 line 55-67 and Col.6 line 3-7)

With respect to claim 8, Newson discloses the mobile station according to claim 7, characterized in that said mobile station determines whether or not said mobile station is receiving data via a common pilot channel from each of said plurality of sectors. (Col.2 line 55-61)

With respect to claim 9, Newson discloses the mobile station Fig.4 according to claim 7, characterized in that said mobile station Fig.4 determines whether or not said mobile station is receiving data via a dedicated physical data channel from each of selected sectors, (Col.2 line 55-61) and excludes sectors from which said mobile station has not received any data via dedicated physical data channels a predetermined

Art Unit: 2618

number or more of times from candidates for site selection diversity transmit power control. (Col.6 line 3-6)

***Claim Rejections - 35 USC § 103***

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 10-14 are rejected under 35 U.S.C. 103(a) as being unpatentable over Newson (US 6,320,898) in view of Willenegger (US 6,996,069).

With respect to claim 10, Newson discloses the mobile station Fig.4 that receives data from a plurality of sectors and selects sectors as candidates for site selection diversity transmit power control, (Col.4 line 54-59) characterized in that said mobile station selects sectors based on site selection diversity transmission power control on/off information received via said plurality of sectors from a radio network control station.

However Newson does not specifically disclose information indicating whether or not said mobile station is receiving data via a dedicated physical data channel from each of said plurality of sectors, and DTX (Discontinuous transmission) on/off information of a TFCI (Transport Format Combination Indicator) field indicating a structure of a transport channel in the dedicated physical control channel.

Art Unit: 2618

The Willenegger reference however discloses wherein Fig.4 discloses a transport format combination indicator field 424 indicating a structure of a transport channel in the dedicated physical control channel. (Col.9 line 34-42)

It would have been obvious to one of ordinary skill in the art to implement a transport format indicator field as disclosed by Willenegger to the mobile station of Newson in order to send instantaneous parameters of the transport channels.

With respect to claim 11, Newson discloses the mobile station according to claim 10, characterized in that said mobile station Fig.4 measures received power of the dedicated physical data channel so as to determine whether or not said mobile station is receiving data via the dedicated physical data channel from each of said plurality of sectors. (Col.6 line 3-6)

With respect to claim 12, Newson and Willenegger combined disclose the mobile station according to claim 10, Willenegger continues to disclose that the characterized in that said mobile station measures received power of the TFCI field of the dedicated physical data channel so as to determine whether or not said mobile station is receiving data via the dedicated physical data channel from each of said plurality of sectors. (Col.9 line 34-42)

With respect to claim 13, Newson and Willenegger combined disclose the mobile station according to claim 10, Newson continues to disclose the characterized in that

Art Unit: 2618

said mobile station measures received power of a pilot field of the dedicated physical data channel so as to determine whether or not said mobile station is receiving data via the dedicated physical data channel from each of said plurality of sectors. (Col.6 line 3-6 and Col.2 line 55-61)

With respect to claim 14, Newson and Willenegger combined discloses the mobile station Fig.4 according to claim 10, characterized in that said mobile station measures both received power of the TFCI field of the dedicated physical data channel and received power of a pilot field of the dedicated physical data channel so as to determine whether or not said mobile station is receiving data via the dedicated physical data channel from each of said plurality of sectors. (Col.9 line 34-42)

### ***Conclusion***

5. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

The Butovitsch (US 6,708,041) discloses the base station transmit power control in a CDMA cellular telephone system.

The Kim reference (US 7,010,322) discloses an apparatus and method for controlling power of a forward common power control channel in a mobile communication system.



Art Unit: 2618

6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Richard Chan whose telephone number is (571) 272-0570. The examiner can normally be reached on Mon - Fri (9AM - 5PM).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Edan Orgad can be reached on (571)272-7884. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Richard Chan  
Art Division 2618  
12/19/06



EDAN ORGAD  
PATENT EXAMINER/TELECOMM.



12/19/06